

IC 36-4

ARTICLE 4. GOVERNMENT OF CITIES AND TOWNS GENERALLY

IC 36-4-1

Chapter 1. Classification of Municipalities; City Status and Town Status

IC 36-4-1-1

Basis of classification

Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 250,000 or more	First class cities
Cities of 35,000 to 249,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.37; P.L.340-1987, SEC.1; P.L.71-1997, SEC.2.

IC 36-4-1-1.1

Change of status to second class city

Sec. 1.1. (a) Except as provided in subsection (b), a third class city remains a third class city even though the city attains a population of at least thirty-five thousand (35,000) at a federal decennial census.

(b) The legislative body of a city to which subsection (a) applies may, by ordinance, adopt second class city status.

As added by P.L.209-1999, SEC.1.

IC 36-4-1-2 Repealed

(Repealed by Acts 1981, P.L.44, SEC.61.)

IC 36-4-1-2.1

Certain localities governed as cities; validation of elections, contracts, and official proceedings

Sec. 2.1. Any locality that has elected city officers, and has governed itself as a city, for at least ten (10) years immediately preceding September 1, 1981, is a city for all purposes. All elections, contracts, acts, and other official proceedings of such a locality that occurred before September 1, 1981, and would have been valid if the locality had been a city, are legalized and validated.

As added by Acts 1981, P.L.44, SEC.38.

IC 36-4-1-3

Change of status; town to city; city to town

Sec. 3. The status of a municipality may be changed from town to city or city to town only by the procedures prescribed by this chapter.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-1-4

Change of status; town to city; procedure

Sec. 4. If a town has a population of more than two thousand (2,000), it may change into a city in the following manner:

- (1) The town legislative body may adopt a resolution submitting to the town's voters the question of whether the town should change into a city. The legislative body shall adopt such a resolution if at least the number of the registered voters of the town required under section 4.1 of this chapter petition it to do so. The legislative body shall file a copy of the resolution with the clerk of the circuit court for each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.
- (2) The resolution must fix a date for an election on the question. If the election is to be a special election, the date must be not less than thirty (30) nor more than sixty (60) days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.
- (3) Notice of the election must be given by the clerk of the circuit court in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.
- (4) The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ change into a city?".
- (5) If a majority of those voting on the question vote "yes", the town changes into a city when its officers are elected and qualified; otherwise the town remains a town.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.2, SEC.15; Acts 1981, P.L.44, SEC.39; P.L.5-1986, SEC.42; P.L.3-1987, SEC.553; P.L.12-1995, SEC.127; P.L.3-1997, SEC.453; P.L.68-2003, SEC.1.

IC 36-4-1-4.1

Petition for resolution; number of signatures

Sec. 4.1. (a) A petition for a resolution under section 4 of this chapter must be signed by the number of registered voters of the town equal to at least ten percent (10%) of the total vote cast at the last election for secretary of state.

(b) In determining the number of signatures required under this section, any fraction that exceeds a whole number must be disregarded.

As added by P.L.68-2003, SEC.2.

IC 36-4-1-5

Election of officers; ballots; change from town to city; town remaining a town

Sec. 5. (a) If an election under section 4 of this chapter is held on the same date as a general election of town officers, the ballot must contain a list of candidates for the elective offices of a city.

(b) If the town changes into a city, the candidates elected take office as officers of the city on January 1 following their election.

(c) If the town remains a town, the candidate elected as clerk or clerk-treasurer takes office as town clerk-treasurer, and the candidates elected as members of the legislative body who:

(1) reside in the districts in which vacancies exist on the town legislative body; and

(2) received the highest number of votes;

take office as members of the town legislative body.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-1-6

Petition to change city to town; summons; trial; issue; order; transition; provisional government

Sec. 6. (a) A petition to change a city into a town may be filed as a civil action in the circuit court for the county in which the city is located. The petition must be signed by at least two-thirds (2/3) of the taxpayers twenty-one (21) years of age or older who reside in the city.

(b) Whenever a petition is filed under this section, the clerk of the circuit court shall issue a summons to the city in its corporate name. A taxpayer who signed the petition may not withdraw his signature on or after the return date of the summons.

(c) An action under this section shall be tried by the court without a jury, and the only issue to be determined is whether the petition contains the genuine signatures of the number of taxpayers required. If the court finds in the affirmative, it shall enter an order changing the city into a town.

(d) After an order is entered under subsection (c), the executive and the legislative body of the municipality shall organize as a town legislative body, with the executive becoming the town executive, and the remaining officers of the municipality shall exercise only the functions that may be exercised by the corresponding town officers. If none of the functions of a city officer or board is exercised under a town government, that officer or board shall immediately file a final report with and turn over all records and property in his or its custody to the town legislative body. After the final report of a former city officer or board is approved by the town legislative body, that office or board is abolished.

(e) The provisional town government provided for in subsection (d) shall serve until the time prescribed by IC 3-10-6-5 for a regular town election.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1983, SEC.11; P.L.5-1986, SEC.43.

IC 36-4-1-7

Petition to change name of city; hearing; ordinance

Sec. 7. (a) A petition to change the name of a city may be filed with the city legislative body. The petition must:

- (1) be signed by at least five hundred (500) voters of the city, or, in a city having less than five hundred (500) registered voters at the time of the most recent general election, by at least ten percent (10%) of those voters;
- (2) be verified by one (1) or more of the petitioners; and
- (3) set forth reasons for the change of name.

(b) If the legislative body considers the reasons set forth in the petition sufficient, it shall conduct a public hearing on the petition after giving notice by publication in the manner prescribed by IC 5-3-1.

(c) If after the hearing the legislative body finds that the matters set forth in the petition are true and that the requested change of name should be granted, it shall pass an ordinance changing the name of the city. The change of name takes effect sixty (60) days after the effective date of the ordinance.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.12.

IC 36-4-1-8

Classification change due to population change; applicable laws

Sec. 8. (a) Whenever the classification of a city under section 1 of this chapter changes due to a change in the city's population, the city shall be governed by the laws applicable to its new class, except as provided by subsection (b).

(b) The membership of a city legislative body remains unchanged until the expiration of the terms of its members, despite a change in the classification of the city for any reason. At the municipal election preceding the expiration of those terms, the number of members of the legislative body required by the laws applicable to its new class shall be elected. The powers, duties, functions, and office of an elected official of a city shall remain unchanged until the expiration of the term of the elected official, despite a change in city classification for any reason.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.40; P.L.209-1999, SEC.2.

IC 36-4-1-9

Continuation of prior acts, contracts, obligations, ordinances, and regulations

Sec. 9. The validity of the prior acts, contracts, and obligations of a municipality that changes its status, name, or classification under this chapter is not affected by that change. The ordinances, rules, and regulations of the municipality continue in effect until amended or repealed.

As added by Acts 1980, P.L.212, SEC.3.